In Claim 3 please change "Claim 1" to -- Claim 6 -- therein.

In Claim 4 please change "Claim 1" to -- Claim 6 -- therein.

In Claim 5 please change "Claim 1" to -- Claim 6 -- therein.

15 6. (NEW) A dry measuring test device for detecting a substance in a liquid sample by measuring the degree of reaction between the substance to be measured and a chromogenic reagent in units of reflectance of light, comprising a single reagent layer comprising a reagent containing a chromogen, polymer beads embedding light reflective particles, and a matrix comprising a hydrophilic high molecular substance and which retains said reagent and said polymer beads, wherein the content of the polymer beads is not more than about 30 wt % of the total weight of the single reagent layer, and wherein said polymer beads are uniformly distributed in the matrix.

REMARKS

In the Office Action dated February 9, 2000, it is noted that Claims 1-5 are pending. Claim 14 was added by the amendment filed October 15, 1999 and is, therefore, also pending. Claim 14, however, was not examined in the Office Action dated February 9, 2000.

Rejection under 35 U.S.C. §112, first paragraph

Claims 1-5 were rejected under 35 U.S.C. 112, first paragraph. The Examiner stated that "the original specification does not exclude the use of chemical bonding of the beads."

Claim 1 has been canceled herein and new Claim 6 added. New Claim 6 does not recite that the beads are not chemically bonded. Applicants therefore respectfully request that this rejection be withdrawn as it is now rendered moot.

Rejections Under 35 U.S.C. § 102(b)

Claims 1-5 were rejected under 35 U.S.C. 102(b) "as being clearly anticipated by *Koyama et al.* (U.S. Patent No. 4,430,436), *Terashima et al.* (U.S. Patent No. 4,839,278) and EP

162,302. The Examiner has stated that *Koyama et al.* teaches in columns 2-3 that it is known to embed particles in a single layer but is disadvantageous for the reasons of void volumes and "clogging" of the structure. All of the analytical elements described in columns 2-3 of Koyama et al. have particulate structures.

On the other hand, in the device as claimed in the present application, the content of the polymer beads is not more than 30 wt % based on the total weight of the single reagent layer. The low content is not disclosed nor suggested by *Koyama et al.* Support for the uniform distribution of the beads in the matrix is to be found in the specification at pages 43-44, wherein the composition of Table 1 is mixed from individual components, including Techpolymer MBX5 beads (at page 44). It will be understood by one of ordinary skill in the art that mixing and subsequent spreading of the composition as described in Example 1, will distribute the beads uniformly. When combined with the low density of the beads of no more than 30 wt % of the total weight of the single reagent layer, the polymer beads are retained in the matrix and cannot constitute a particulate structure as taught by *Koyama et al.* In the present invention as claimed in the present application, therefore, no particulate structure is formed from the dispersed and chemically independent polymer beads.

Thus, as discussed in the response filed on April 27, 1999, when the light reflective particles are directly contained within the reagent layer, there is a problem in practical use. This problem is solved by the light reflective particles being embedded within independent polymer beads uniformly distributed throughout the hydrophilic matrix of the reagent layer. This contrasts with the teaching of *Koyama et al.*, wherein the polymer beads are chemically bonded to each other so as to construct a particulate structure. Applicants therefore respectfully request that this rejection be withdrawn

The Examiner has stated that with respect to *Terashima et al.* and EP 162,302, the language of the limitation "comprising a single reagent layer" is open, and does not exclude an additional layer. Applicants traverse this rejection.

The test device of the present invention, as claimed in the new Claim 6 of the present Application, is characterized by comprising the single reagent layer in which the reagent and the polymer beads uniformly distributed. A single reagent layer is not disclosed nor suggested by *Terashima et al.* or EP 162,302. Therefore, it is believed to be irrelevant whether additional layer is excluded or not. The rejection should be reconsidered and withdrawn.

The foregoing is submitted as a full and complete Response to the Office Action mailed February 9, 2000. This Response places all claims in the present application in condition for allowance, and such action is courteously solicited. The Examiner is invited and encouraged to contact the undersigned attorney of record if such contact will facilitate an efficient examination and allowance of the application. No additional fees are believed due; however, the Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to Deposit Account No. 10-1215.

Respectfully submitted,

JONES & ASKEW, LLP

By: David J. Hayes
Reg. No. 43,329

2400 Monarch Tower
3424 Peachtree Road, N.E.
Atlanta, GA 30326
(404) 949-2400
Our Docket: 20111-0014

UNITED STATES DEPARTMENT OF COMMERCE
Pat nt and Trad mark Offic
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/959,125	10/28/97	HIGUCHI Y	20111-0014

IM62/0814

JONES & ASKEW, LLP
2400 MONARCH TOWER
3424 PEACHTREE ROAD, N.E.
ATLANTA GA 30326

RECEIVED
AUG 17 2000
JONES & ASKEW

EXAMINER	
ALEXANDER, L	
ART UNIT	**PAPER NUMBER**
1743	18

DATE MAILED: 08/14/00

SCANNED

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Notice of Abandonment

Application No.	Applicant(s)
08/959,125	Higuchi et al.
Examiner	**Group Art Unit**
Lyle A. Alexander	1743

This application is abandoned in view of:

☒ applicant's failure to timely file a proper response to the Office letter mailed on *Feb 9, 2000* .

☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of ___ month(s)) which expired on _____ .

☐ A proposed response was received on _____ , but it does not constitute a proper response to the final rejection.

(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC)).

☒ No response has been received.

☐ applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____ .

☐ The submitted issue fee of $_____ is insufficient. The issue fee required by 37 CFR 1.18 is $_____ .

☐ The issue fee has not been received.

☐ applicant's failure to timely file new formal drawings as required in the Notice of Allowability.

☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____ .

☐ The proposed new formal drawings filed _____ are not acceptable.

☐ No proposed new formal drawings have been received.

☐ the express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____ .

☐ the letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

☐ the letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

☐ the decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ the reason(s) below:

LYLE A. ALEXANDER
PRIMARY EXAMINER
ART UNIT 1743